



# ***Foreign Policy Consideration s in Security Assistance***



# ***Instruments of U.S. Foreign Policy***

- **Diplomatic Engagement**
- **Economic Assistance**
- **Security Assistance**
- **Military Power**

**SecState George Shultz, 1987**



# ***Foreign Policy***

A **strategy** developed by a country's decision makers to achieve "national interest" objectives with respect to foreign countries



# ***Foreign Policy Strategies***

- **Isolation**
- **Neutrality**
- **Non-Alignment**
- **Coalitions**
- **Alliances**



# ***U.S. Collective Defense Treaties***

- **Inter-American Treaty of Reciprocal Assistance (1947)**
- **North Atlantic Treaty (1949)**
- **ANZUS Security Treaty (1951)**
- **U.S. - Philippines Mutual Defense Treaty (1951)**
- **U.S. - Korea Mutual Defense Treaty (1953)**
- **Southeast Asia Collective Defense Treaty (1954)**
- **U.S. - Japan Mutual Cooperation & Security Treaty (1960)**



# ***Inter-American Treaty of Reciprocal Assistance ("Rio Treaty")***

## **23 Nations**

**Argentina**

**Bahamas**

**Bolivia**

**Brazil**

**Chile**

**Colombia**

**Costa Rica**

**Cuba**

**Dominican Republic**

**Ecuador**

**El Salvador**

**Guatemala**

**Haiti**

**Honduras**

**Mexico**

**Nicaragua**

**Panama**

**Paraguay**

**Peru**

**Tobago/Trinidad**

**United States**

**Uruguay**

**Venezuela**



# ***North Atlantic Treaty Organization (NATO)***

## **Membership (26 total):**

<b>Belgium</b>	<b>Hungary</b>	<b>Portugal</b>
<b>Bulgaria</b>	<b>Iceland</b>	<b>Romania</b>
<b>Canada</b>	<b>Italy</b>	<b>Slovakia</b>
<b>Czech Rep</b>	<b>Latvia</b>	<b>Slovenia</b>
<b>Denmark</b>	<b>Lithuania</b>	<b>Spain</b>
<b>Estonia</b>	<b>Luxembou</b>	<b>Turkey</b>
<b>France</b>	<b>rg</b>	<b>United</b>
<b>Germany</b>	<b>Netherlan</b>	<b>Kingdom</b>
<b>Greece</b>	<b>ds</b>	<b>United</b>
	<b>Norway</b>	<b>States</b>
	<b>Poland</b>	



# ***Southeast Asia Treaty***

## **7 Nations**

**Australia**

**France**

**New Zealand**

**Philippines**

**Thailand**

**United States**

**United Kingdom**

### **Does not include:**

**Brunei**

**Burma**

**Cambodia**

**Indonesia**

**Laos**

**Malaysia**

**Singapore**

**Vietnam**





# ***Foreign Policy***

A strategy developed by a country's **decision makers** to achieve “national interest” objectives with respect to foreign countries



# ***Foreign Policy Decision Makers***

- **Executive branch**
  - **President**
  - **Vice President**
  - **Secretary of State**
  - **Secretary of Defense**
  - **Secretary of Treasury**
  - **National Security Council (NSC)**
  - **Special Assistant to the President for national security affairs**
- **Legislative branch**
  - **Senate**
    - **Foreign Relations Committee (SFRC)**
  - **House of Representatives**
    - **International Relations Committee (HIRC)**



# ***The President and Congress***

**“Although Congress plays an important role, the President is the chief architect of foreign policy. The role of Congress is to be a partner, helping formulate policy, acting as a sounding board for presidential initiatives, and providing policy oversight.”**

**Rep Lee Hamilton (D, Ind.)  
Minority Leader, HIRC**

**18 Nov 98, Lecture at the Institute for the  
Diplomacy. Georgetown Univ.**

**Study of**



# ***Foreign Policy Interest Groups***

- **Business associations**
  - **Defense industry**
  - **Financial associations**
  - **Local/regional communities**
- **Agricultural associations**
- **Organized labor**
- **Veterans groups**
- **Foreign diplomats**
- **"Country lobbies"**

**POLITICAL  
ACTION  
COMMITTEES  
(PACS)**

•Taiwan  
•Korea

•Israel  
•Arab

•Greece  
•East Europe

•Ireland



# ***Reality of Politics***

**"There's not a lot of people willing to set a goal that you won't achieve for four to five years because, politically, it's hard to get any credit back home when you're running for re-election."**

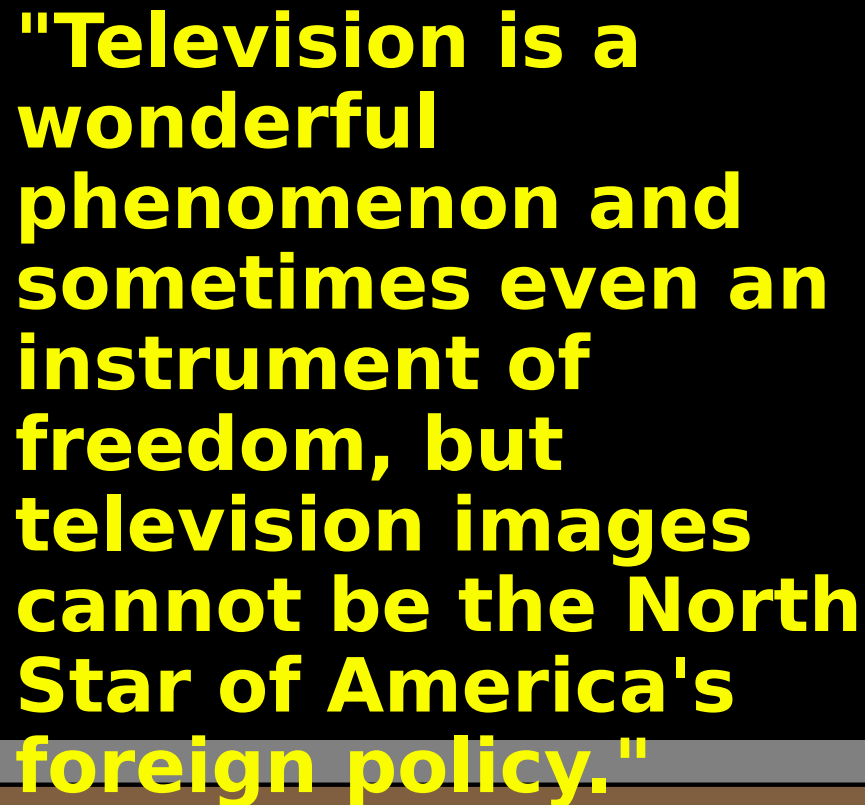
**A former White House and Senate Aide**



# ***The Media and U.S. Public Opinion***



# ***The Media and Foreign Policy***

A vintage television set with a brown wooden-grain cabinet and a silver faceplate. The screen is black and displays a quote in yellow text. The top of the TV has a control panel with a volume slider, several buttons, and a green digital display showing "888".

**"Television is a wonderful phenomenon and sometimes even an instrument of freedom, but television images cannot be the North Star of America's foreign policy."**



# ***Foreign Policy***

**A strategy developed by a country's decision makers to achieve  
“National Interest”  
objectives with respect to foreign countries**

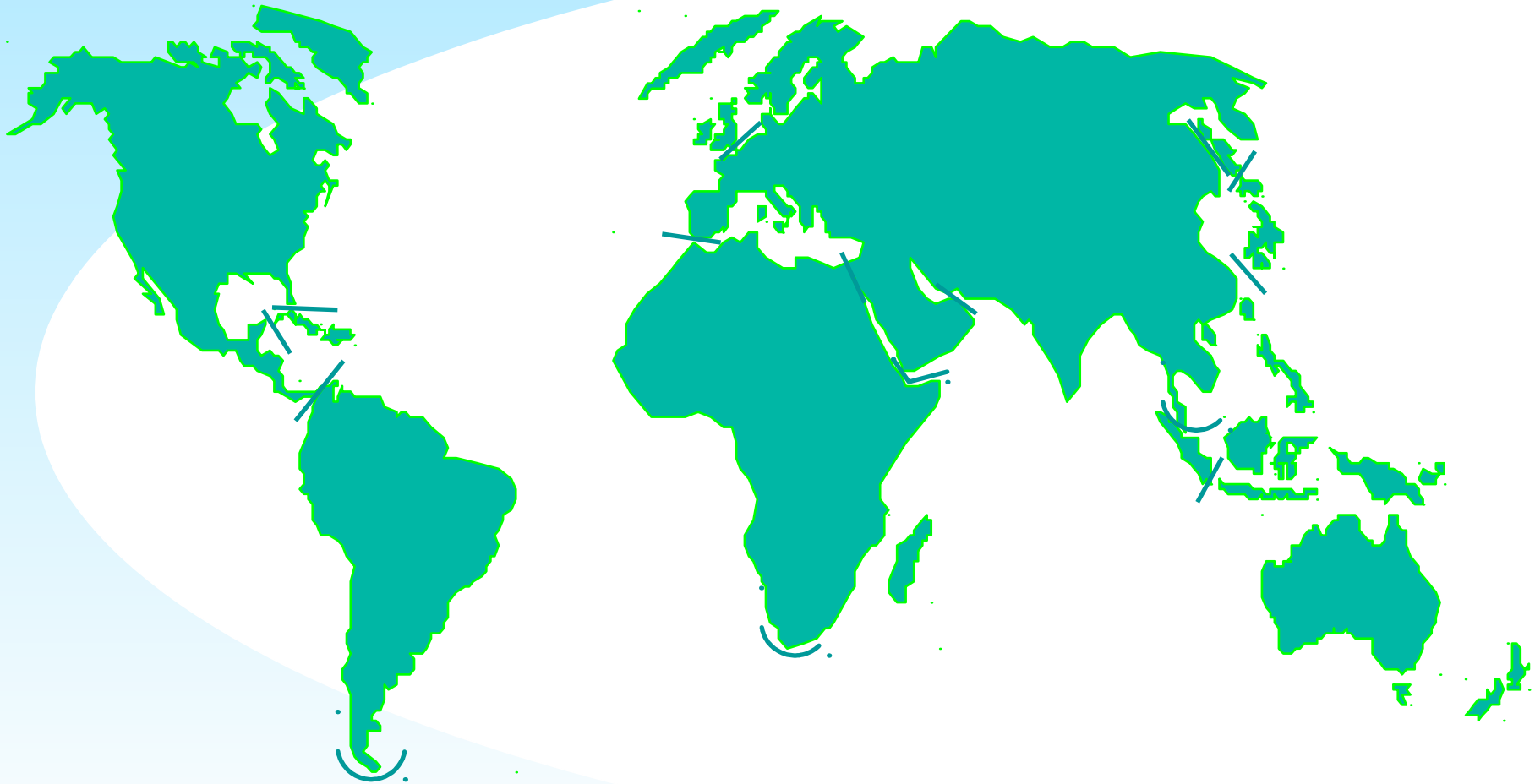




# ***State Dept. and USAID FY 2004-2009 Strategic Goals***

- **Regional Stability**
- **Counterterrorism**
- **Homeland Security**
- **Weapons of Mass Destruction**
- **International Crime and Drugs**
- **American Citizens**
- **Democracy and Human Rights**
- **Economic Prosperity and Security**
- **Humanitarian Response**
- **Social and Environmental Issues**
- **Public Diplomacy and Public Affairs**
- **Management and Organizational Excellence**

**Ref: State and USAID  
Strategic Plan, 20 Aug  
03**





# Comparative World Oil Reserves



Source: CNN.com from Oil & Gas Journal and DOE, Energy Info Admin for 1997



# Selected Strategic Minerals

## Net U.S. Import Reliance-2001\*

### Bauxite & Aluminum 100%

Australia	31%
Guinea	22%
Jamaica	18%

### Cesium 100%

Canada	100%
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### Chromium 78%

So. Africa	48%
Kazakhstan	16%
Turkey	9%
Russia	9%
Zimbabwe	9%

### Cobalt 78%

Finland	22%
Norway	21%
Russia	11%
Canada	11%

### Columbium 100%

Brazil	75%
Canada	9%
Germany	4%

### Fluorspar 100%

China	63%
So. Africa	26%
Mexico	11%

### Graphite 100%

China	33%
Mexico	23%
Canada	22%
Brazil	9%

### Manganese 100%

Gabon	66%
Mexico	10%
Australia	9%

### Nickel 56%

Canada	40%
Norway	14%
Russia	13%
Australia	9%

### Platinum 66%

So. Africa	50%
U.K.	15%

### Rubidium 100%

Canada	100%
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### Strontium 100%

Mexico	94%
Germany	4%

### Tantalum 80%

Australia	44%
China	13%
Thailand	10%

### Titanium 72%

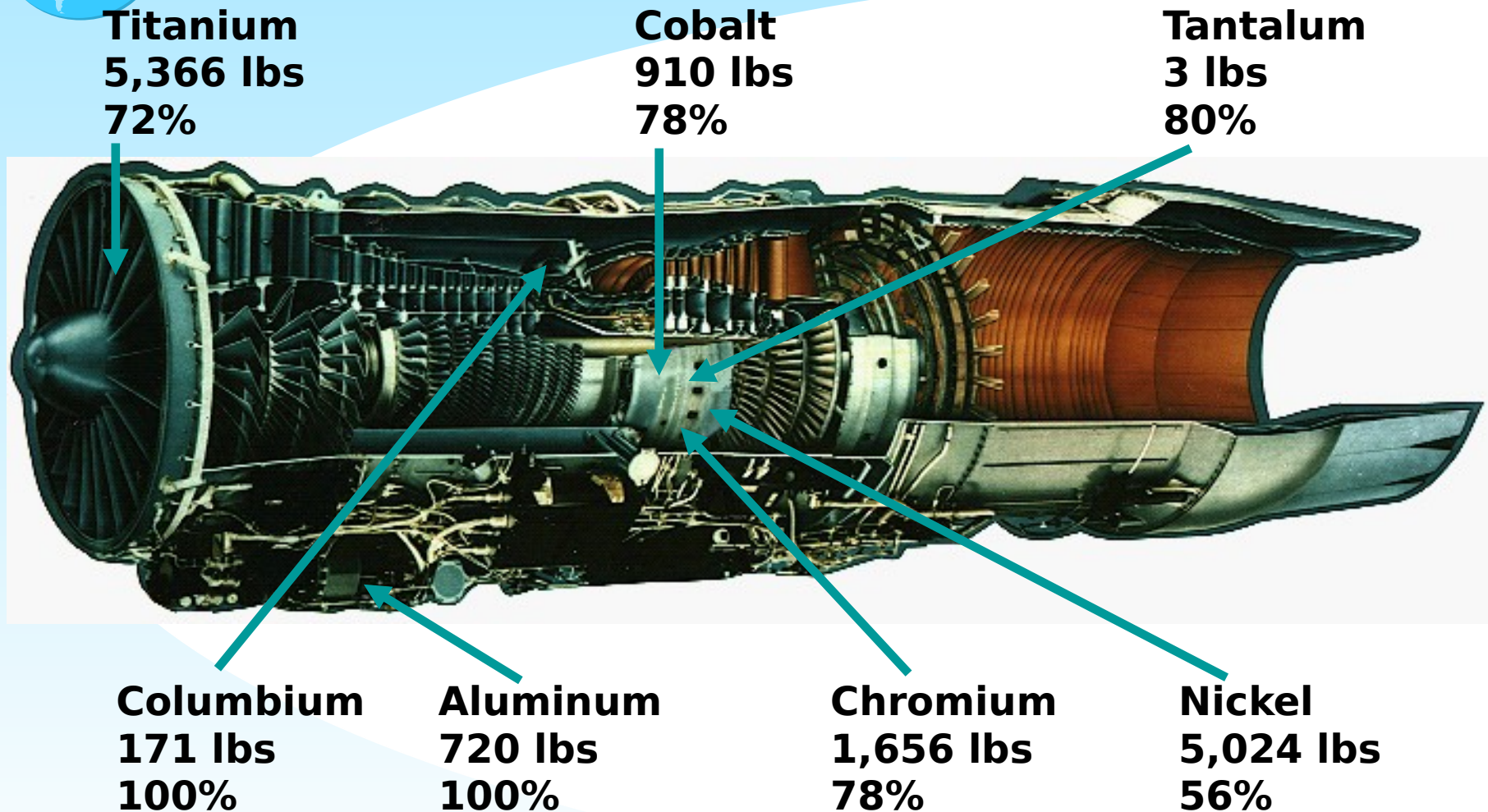
(rutile)	47%
So. Africa	35%
Australia	10%
Canada	

\*Country source data reflect percent of total U.S. imports during 1997-2000.

(Source: Mineral Commodity Summaries, 2002. Dept of Interior, USGS)



# ***F-100 Engine Dependence on Imported Metals*** ***(F-15 and F-16 aircraft)***

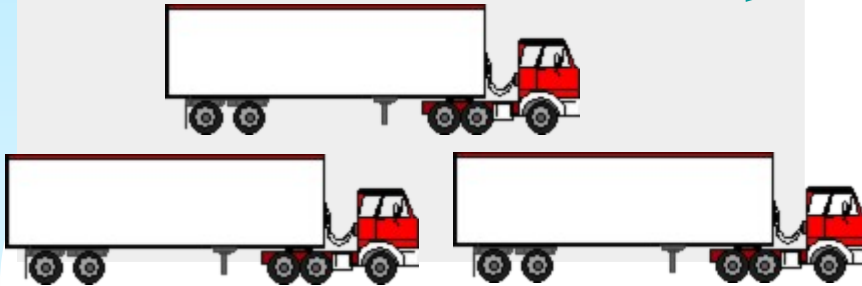


**(Note: Metals indicated are used in more than one place in engine)**



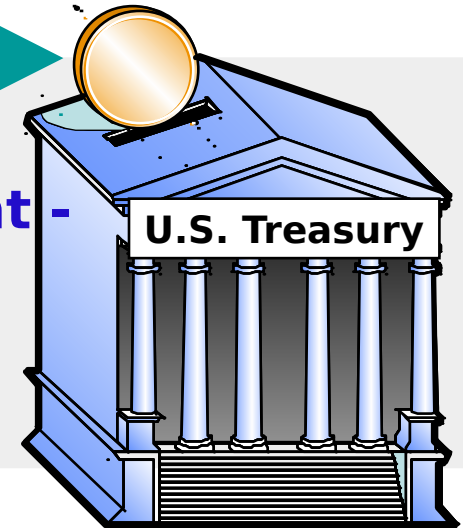
# ***Economic Benefits of Foreign Military Sales***

**Lower Unit Costs -  
Economies of Scale**

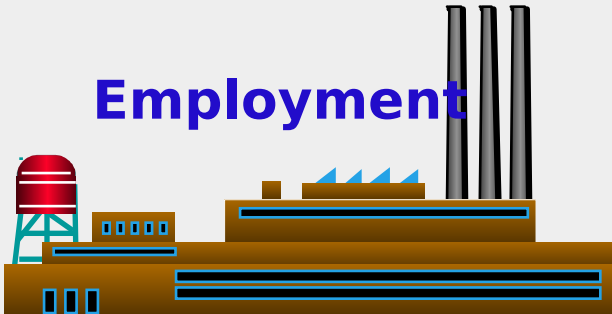


**R&D** → \$

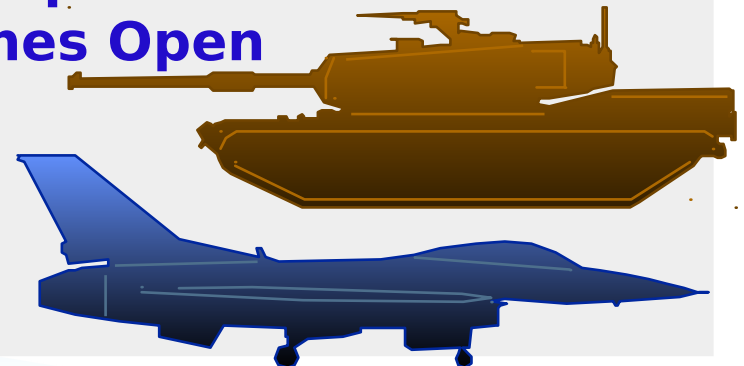
**Recoupment -  
Investment  
Cost**



**Employment**



**Keep Production  
Lines Open**





# ***Impact of Exports on the U.S. Economy***

**In 2000, U.S. exports were \$1.1 trillion of a total GNP of \$9.9 trillion. 32% and 29% were in the export of capital goods and services, respectively. The same figures for their higher technology sectors were even higher.**

Source: Economic Report of the President to Congress, Feb 2000



# ***U.S. Conventional Arms Transfer Policy***

***(PDD-34, 17 Feb 95)***

- **Arms transfers continue to be a legitimate instrument of U.S. foreign policy**
- **Deserving U.S. Government support when**
  - **It helps allies and friends to deter aggression,**
  - **It promotes regional security, and**
  - **It increases interoperability among allies.**





# ***Supporting U.S. Transfers***

- **Continue decisions on a case-by-case basis**
- **Country team support of U.S. overseas marketing efforts**
- **Active involvement by senior USG officials in promoting sales of particular importance to the U.S.**
- **Support of international air and trade shows when determined and notified to be in U.S. interest**



# ***The Fundamental Test of American Foreign Policy***

- Does it make the American people more **secure**?
- Does it make us more **prosperous**?
- Does it advance our democratic **ideals** that we share with people around the world?

**SecState Christopher**

**Washington Post  
20 Dec 96**



# ***International Statutory and Regulatory Framework and Foreign Policy***



# ***Lesson Overview***

- **General Constitutional/Legislative Authorities**
- **U.S. Foreign Policy and the CATP**
- **Sanction Authorities**
- **Congressional Notification Requirements**
- **Weapons-Specific Restrictions**
- **Crisis Action Authorities**
- **Excess Defense Articles**



# ***Security Assistance Legislation***

- **Arms Export Control Act (AECA)  
(22 U.S.C. §2751 et seq.)**
- **Foreign Assistance Act (FAA)  
(22 U.S.C. §2151 et seq.)**
- **Foreign Assistance Authorization Acts  
(latest is P.L. 107-228 for FY03)**
- **Foreign Assistance Appropriations  
Acts (latest is P.L.108-199)**



# ***Other Sources of Security Assistance Legislation***

- **Foreign Relations Authorization Act**
- **Commerce, Justice, State, and Judiciary Appropriations Act**
- **Afghanistan Freedom Support Act**
- **National Defense Authorization Act**
- **Defense Appropriations Act**
- **FREEDOM Support Act (FSA) [for the FSU]**
- **Support of East Eur. Democracy (SEED) Act**
- **Emergency or Supplemental Funding Acts**
- **Continuing Resolutions (CRs)**



# ***Foreign & National Security Policy Objectives***

- **Congress recognizes ... that Countries ... have valid (defense) requirements ...**
- **To this end, ... [§1, AECA] ... authorizes sales ... (when) consistent with the Foreign Policy interests of the United States**



# ***State Dept. and USAID FY 2004-2009 Strategic Goals***

- **Regional Stability**
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- **Democracy and Human Rights**
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- **Management and Organizational Excellence**

**Ref: State and USAID  
Strategic Plan, 20 Aug  
03**





# ***Authorities for FMS***

## **§21(a)(1), AECA - Sales from Stock**

**“The President may sell defense articles and defense services from the stocks of the [DoD & USCG] to any eligible country...”**

## **§22(a), AECA - Procurement for Cash Sale**

**“The President may enter into contract for the procurement of defense articles or defense services for sale...to any foreign country...”**

## **§23(a), AECA - Credit Sales**

**“The President is authorized to finance the procurement of defense articles, defense services... by friendly foreign countries...”**



# ***Recovery of Cost***

**The FMS program must managed at no cost to the USG (with certain exceptions specifically identified in the AECA)**

**[§C4.6.1, SAMM]**



# ***Authorized Military Sales / Leases***

**To allied / friendly countries solely:**

- **For internal security.**
- **For legitimate self-defense for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons.**
- **To permit participation in regional / collective arrangements or measures consistent with the charter of the United Nations.**
- **To enable foreign military contribution to public works and civic action programs**

**[§4, AECA]**



# ***Eligibility Requirements for FMS and Leases***

- **Furnishing of defense articles / services must strengthen U.S. security & promote world peace.**
- **No retransfers without Presidential consent**
- **No use of articles / services for purposes other than for which furnished, unless consent of the President has first been obtained.**
- **Recipient to maintain security of such article**
- **Country or international organization must otherwise be eligible to purchase articles**



# ***End-Use Monitoring Program***

## **[DSCA “Golden Sentry” Program]**

- **President must establish an “end-use monitoring program” for articles and services transferred IAW the AECA or FAA.**
- **DoS “Blue Lantern” program standards are to be used in identifying high-risk exports.**
- **Designed to provide assurances that:**
  - **recipient is complying with USG end-use, third country transfer, and security requirements.**
- **Program is also to provide for end-use verification of sensitive technologies vulnerable to diversion or misuse.**

**[§40A, AECA]**



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# ***FAA General Prohibitions***

**Security assistance funding is prohibited for countries which:**

- **Consistently violate internationally recognized human rights. [§502(B)].**
- **Nationalize / expropriate U.S. property. [§620(e)]**
- **Are communist countries [§620 (f).]**
- **Sever diplomatic relations with the U.S. [§620(t)]**
- **Repeatedly provide support for international terrorism [§620(A)]**



## ***Security Assistance and Human Rights***

**...No Security Assistance may be provided to any country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.**

**[\$502B, FAA]**





## ***Foreign Assistance and Human Rights***

- **No funding for any security forces unit if SecState has credible evidence of gross violations of human rights by that unit, unless SecState reports to Congress that the country is taking effective measures to bring the responsible individual(s) of the unit to justice.**
- **Also referred to as the “Leahy Amendment”**
- **Similar amendment for DoD-funded training.**

**[§553, P.L. 108-199]**



# ***Annual Foreign Military Training Report***

- Submitted jointly by DoS and DoD, in general, NLT 31 Jan for the previous and current FYs.
  - Unless specifically requested in writing NLT 90 days in advance, not to include NATO countries, Japan, Australia, or New Zealand
- To include for each training activity: U.S. foreign policy justification and purpose, number of personnel trained, training location, U.S. units involved with operational benefits derived, and
- For each country: aggregate number of students trained and aggregate costs.

**[\$656, FAA]**



# ***FAA General Prohibitions***

**Security assistance funding is prohibited for countries which:**

- **Consistently violate internationally recognized human rights. [§502(B)].**
- **Nationalize / expropriate U.S. property. [§620(e)]**
- **Are communist countries [§620 (f).]**
- **Sever diplomatic relations with the U.S. [§620(t)]**
- **Repeatedly provide support for international terrorism [§620(A)]**



# ***Terrorism-Associated Countries***

**Countries prohibited from  
receiving**

**direct U.S. assistance**

**Cuba**

**Iran**

**Libya**

**N.Korea**

**Syria**



## ***Other Counter-Terrorism Actions***

- **No funding to countries that provide:**
  - **Sanctuary from prosecution, or otherwise supports terrorism.**

**[\$527, P.L. 108-199]**

- **Lethal military equipment to a government determined to be a repeated supporter of terrorism.**

**[\$543, P.L. 108-199 & §620H, FAA]**



# ***Other General Prohibitions***

**Security assistance funding is prohibited for a country which:**

- **Prevents a U.S. person from participating in furnishing assistance on the basis of race, religion, national origin, or sex (§666, FAA, and §5, AECA)**
- **Deliver/receives nuclear materials or technology w/o appropriate international safeguards (§101-103, AECA)**
- **Intimidates or harasses individuals in the U.S. (§6, AECA)**
- **Has not taken adequate steps to halt drug trafficking (§490, FAA)**
- **Violates “Use” provisions governing transfers (§505 (d), FAA)**



# ***Other General Prohibitions***

**Security assistance funding is prohibited for a country which:**

- **Deposes elected head of government by military coup or decree (§508, P.L. 108-199)**
- **Is in default on loan repayments [§620(q), FAA, and §512, P.L. 108-199]**
- **Participates in economic boycott of Israel (§561-565, P.L. 102-236)**
- **Harbors indicted former Yugoslavia war criminals (§570, P.L. 108-199)**



# ***Sanctions for Loan Arrearages***

## **§620(q), FAA**

- **Applies to repayment of any FAA loans which are in arrearage for over 6 months**
- **Suspends IMET, ESF, and grant EDA assistance**
- **Does not apply to FMFP assistance**
- **Presidential national interest waiver is authorized**





# ***Sanctions for Loan Arrearages (cont.)***

## **§512, P.L. 108-07, (Brooke-Alexander Amendment)**

- **Renewed annually in Foreign Operations Appropriations Act**
- **Applies to repayments of any foreign assistance loans which are in arrears for over 12 months**
- **Suspends IMET, ESF, and FMFP funding for new FMS cases**
- **Presidential waiver is authorized**



# ***Other General Prohibitions***

**Security assistance funding is prohibited for a country which:**

- **Deposes elected head of government by military coup or decree (§508, P.L.108-199)**
- **Is in default on loan repayments [§620(q), FAA and §512, P.L.108-199]**
- **Participates in economic boycott of Israel (§561-565, P.L. 102-236)**
- **Harbors indicted former Yugoslavia war criminals (§570, P.L. 108-199)**



# ***SECSTATE Determination for 2004/05***

- **“No current boycott policy or practice:”**

**Bangladesh Djibouti Egypt Jordan  
Mauritania**

**Morocco Nigeria Pakistan Somalia Sri Lanka  
Tanzania Tunisia Uganda**

- **Grants waivers to 1 May 2005:**

**Algeria Bahrain Kuwait Lebanon**

**Oman Qatar Saudi Arabia UAE Yemen**

- **Countries subject to sales/lease prohibition:  
(No waivers granted)**

**Iran Iraq Libya Sudan Syria**



# ***Other General Prohibitions***

**Security assistance funding is prohibited for a country which:**

- **Deposes elected head of government by military coup or decree (§508, P.L. 108-199)**
- **Is in default on loan repayments [§620(q), FAA and §512, P.L. 108-199]**
- **Participates in economic boycott of Israel (§561-565, P.L. 102-236)**
- **Harbors indicted former Yugoslavia war criminals (§570, P.L. 108-199)**



# ***Other General Prohibitions***

**Security assistance funding is prohibited for a country which:**

- **Prohibits or restricts the provision of U.S. humanitarian assistance (§620I, FAA)**
- **Is not in compliance with minimum standards for combating the trafficking in people (§110, P.L.106-386)**
- **Refuses to sign an Article 98 waiver exempting USG personnel from the “Rome Statute” of the International Criminal Court (§2007, Title II, P.L. 107-206)**



# ***Lesson Overview***

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# ***Annual Arms Sales Proposal Report*** ***("Javits' Report"; §25(a)(1), AEOA)***

- **Required by Congress NLT 01 Feb each year**
- **Lists FMS/DCS sales eligible for approval during current calendar year.**
  - **Major weapons/weapons-related defense equipment greater than \$7M**
  - **Any other weapons/weapons-related defense equipment greater than \$25M**
- **Identifies "most likely" sales**
- **Classified report in two parts: FMS & DCS**
- **Generally, no notifications until submitted**



# ***FMS Notification to Congress***

- **Foreign Military Sales reporting threshold**
  - **\$50M total case value**
  - **\$14M [Major Defense Equipment (MDE)]**
  - **\$200M design and construction services**
    - **\$100M / \$25M / \$300M for NATO countries, Japan, Australia, and New Zealand**
- **Congressional review period**
  - **NATO / Japan / Australia / New Zealand - 15 days**
  - **Other countries - 30 days (with 20 days informal advance notification)**
- **Congress can adopt joint resolution objecting to the sale.**

**[\$36(b)(1),  
AECA]**



## SCHEDULE

## JANUARY

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## JULY

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## AUGUST

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# ***International Traffic in Arms Regulations (ITAR)***

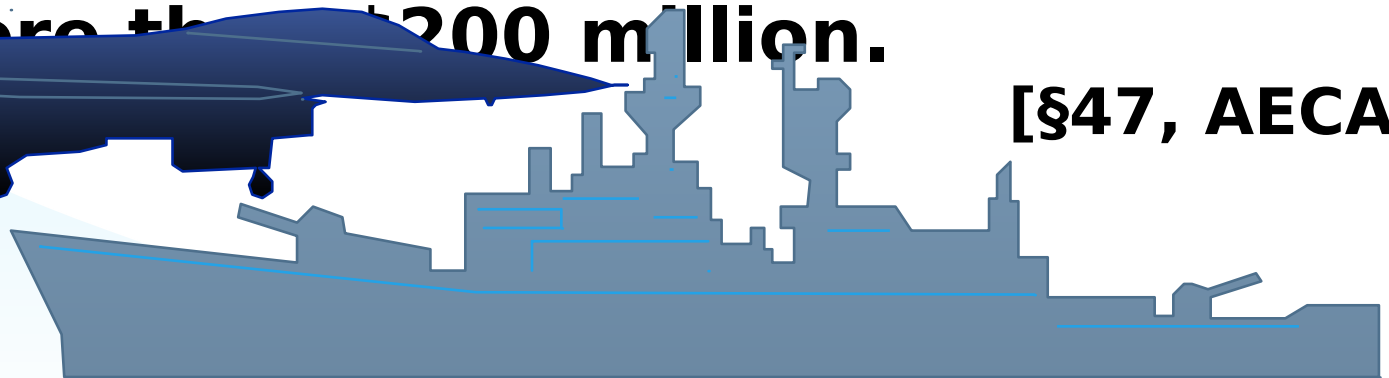
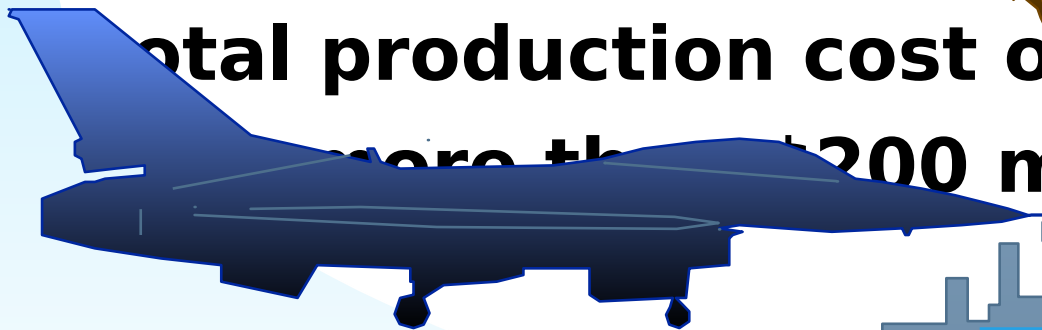
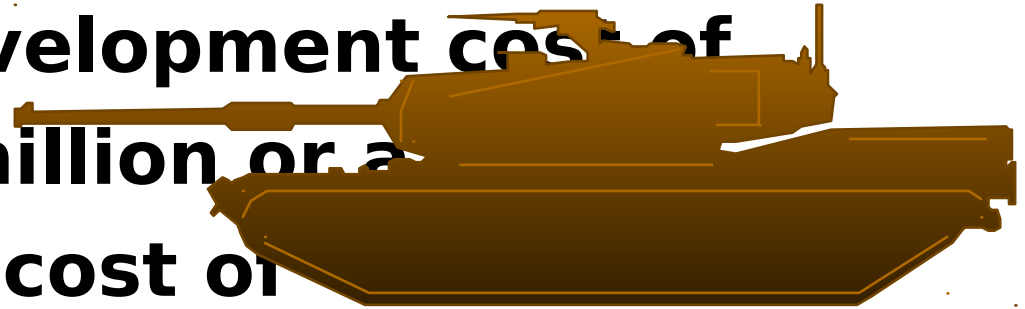
- **Provides registration / licensing requirements for the commercial export of defense articles, services, and related technical data.**
- **Includes the United States Munitions List (USML)**
  - **30 day notification before removing item(s) from list**
- **Identifies “Significant Military Equipment” (SME)**
  - **SME requires special considerations because of “Their capacity for substantial military utility or capability”**
  - **SME also defined in §47(9), AECA**
- **Identified by an Asterisk (\*) on the Munitions List**

**[22 CFR 120-  
130]**

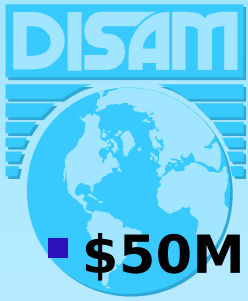


# ***Major Defense Equipment***

**...any item of Significant Military Equipment on the United States Munitions List having a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million.**



**[\$47, AECA]**



# ***DCS Notification to Congress***

- **\$50M total value or \$14M (MDE)**
  - **\$100M / \$25M for NATO countries, Japan, Australia, and New Zealand**
- **\$1M for USML category I items (small arms .50 cal or less)**
- **Congressional review period**
  - **NATO / Japan / Australia / New Zealand - 15 days**
  - **Other countries - 30 days**
- **Joint resolution objecting to sale**
- **President may require specific sales be made through FMS channels**

**[§36(c), AECA]**



# ***Third Country Transfers***

- **\$50M total value or \$14M (MDE) (orig. acq. value)**
  - **\$100M / \$25M for NATO countries, Japan, Australia, and New Zealand**
- **Congressional review period**
  - **NATO / Japan / Australia/New Zealand - 15 days**
  - **Other countries - 30 days**
- **Joint resolution objecting to transfer**
- **Exempted from congressional review**
  - **Maintenance, repair, or overhaul services**
  - **NATO cooperative cross-servicing or lead nation procurement [if in §36(b) notification]**



# ***Leasing of Defense Articles***

## **■ Authority**

- **Compelling foreign policy or national security reasons**
- **Articles, for the time, not needed for U.S. public use**
- **Effect on U.S. tech/industrial base considered**
- **Reimbursement of U.S. costs as required**

## **■ Lease Agreement**

- **Fixed duration, not to exceed 5 years**
  - **Plus period of time in excess of 6 months to complete major refurbishment work prior to delivery**
- **U.S. may terminate at any time**

**[§61-63, AECA]**



# ***Leasing of Defense Articles***

- **Recipient to pay full cost**
  - **Depreciation (lease agreement)**
  - **PCH&T, support, and repair (FMS Case)**
- **Exceptions to full cost requirement**
  - **Cooperative R & D**
  - **Combined exercises**
  - **Comm-Electronics interface projects**
  - **With SecDef national security interest determination, beyond three-quarters of normal life**



# ***Leasing of Defense Articles***

- **Congressional notification**
  - **Required for all leases of one year or longer**
  - **\$14M / \$50M subject to joint resolution objection**
    - **\$25M / \$100M for NATO countries, Japan, Australia and New Zealand**
  - **Review period before entering into or renewing lease:**
    - **NATO/Japan/Australia/New Zealand - 15 days**
    - **Other countries - 30 days**
- **Replacement cost if lost or destroyed**
  - **“replacement cost” if to be replaced**
  - **“ actual value” if not to be replaced**





# ***Technology Sensitivity and Capability Enhancement Notifications***

- Applies to **previously notified** FMS cases and DCS contracts when there has been a subsequent enhancement / upgrade of:
  - sensitivity of technology, or
  - capability of defense article, equipment or service
- Special Report Requirements:
  - submission at least **45 days before delivery**
  - must include description and significance of enhancement/ upgrade and justification for improvements
- New numbered certification report required when cost of enhancements / upgrades exceeds:
  - \$14M (MDE), \$50M (total), \$200M (Design & Construction)
    - \$25M / \$100M / \$300M for NATO countries, Japan, Australia, and New Zealand  
[§36(b)(5) and §36(c)(4),  
AECA]



# ***Lesson Overview***

- **General Constitutional/Legislative Authorities**
- **U.S. Foreign Policy and the CATP**
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# ***Missile-Related Legislation***

- **Prohibition on the transfer of Stinger MANPAD missile systems to any country bordering the Persian Gulf, except to replace one-for-one those previously furnished and nearing the end of their shelf life.**

**[\$705, P.L. 106-280]**

- **Introduced in FY 1988**
  - **Reflecting Congressional concerns**
  - **Accompanied by extensive DoD-initiated security controls for storage, usage, and periodic inventories (§C8.3.3, SAMM)**



# ***Depleted Uranium (M-833) Anti-Tank Shells***

- **Cash or credit-funded FMS or DCS sales of M-833 or comparable anti-tank DU rounds are prohibited except to:**
    - **NATO countries,**
    - **Major non-NATO allied countries,**
    - **Taiwan, or**
    - **Any country for which the President issues a national security interest waiver.**
- [\$620G, FAA]**



# ***Major Non-NATO Allies***

- Includes Argentina, Australia, Bahrain, Egypt, Israel, Japan, Jordan, Korea, Kuwait, **Morocco**, New Zealand, **Pakistan**, Philippines, and Thailand.
- With 30 days prior notification to Congress, the President can either add or delete a country to this listing.     [§517, FAA]
- Taiwan shall be treated as though it was designated as a major non-NATO ally.  
[§1206, P.L. 107-228]



# ***Major Non-NATO Ally DoD Benefits***

- **Participation in cooperative research and development (R&D) programs [10 USC]**
- **Eligible for Defense Export Loan Guarantee (DELG) program [P.L.104-106]**
- **Eligible for joint counter-terrorism R&D projects [P.L.104-132]**
- **Eligible to be awarded DoD OCONUS repair/maintenance/overhaul contracts [10 USC]**



# ***Major Non-NATO Ally **S.A.*****

## ***Benefits***

- **Limited eligibility for priority delivery of EDA [FAA]**
- **Stockpiling of U.S. defense articles [FAA]**
- **Purchase of depleted uranium (DU) anti-tank shells [FAA]**
- **Limited eligibility for no-cost loan of material in support of cooperative R&D programs [AECA]**
- **By a reciprocal agreement, be exempt from certain indirect FMS training charges [AECA]**
- **Use of FMFP for commercial leasing [FOAA]**



# ***Anti-Personnel Landmine Transfer Moratorium***

- **Extends moratorium on the sale, transfer, or export of such landmines from 23 Oct 92 to 22 Oct 08**
- **U.S. Policy: Seek verifiable international agreements to prohibit the sale, transfer, and export of these weapons, and to limit their manufacture, possession, and use**  
**[\$548, P.L. 107-115]**





# ***Landmine Clearance***

- **Clearing of landmines**
  - **During FY 2004, Nonproliferation, Anti-terrorism, Demining, and Related (NADR) Program and FMFP funding may be used for landmine and unexploded ordnance clearance.** [Titles II and III, P.L. 108-199]
- **FY 2004 grant of demining equipment**
  - **For humanitarian purposes**
  - **Available from USAID or State Dept** [\$547, P.L. 108-199]



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# ***Emergency Crisis Management***

- **§506, FAA / 1961  
“Special Authority”**
- **Permits drawdown of articles from US stocks, and provision for services and training**
- **Requires presidential determination report to Congress that:**
  - **An unforeseen emergency exists**
  - **Requires immediate military assistance**
  - **Cannot immediately meet requirement under any other statutory authority**





# ***Emergency Crisis Management (cont.)***

- **\$100M** annual authority for military assistance from DoD.  
[§506(a)(1), FAA]
- **\$200M** annual authority for narcotics, refugee, natural disaster, anti-terrorism, nonproliferation, and Vietnam MIA/POW assistance from any agency.  
[§506(a),(2), FAA]
  - Not more than \$75M from DoD
  - Not more than \$75M for narcotics
  - Not more than \$15M for Vietnam MIA/POW
  - 15-day notification for narcotics and anti-terrorism





# **FAA, §506 (a) Drawdown Authority** *(dollars in millions)*

FYs		§506(a) (1)	§506(a) (2)
90-99		Total	Total
		\$257.5	\$500.0
99	\$58.0	(W.Africa-3, E.Timor-55)	(Hurricane Mitch-75, C/N-72.5)
00	\$18.0	(Sierra Leone)	(Southern Africa- 37.6,
01	\$36.0	(Sierra Leone)	Venezuela-20)
02	\$33.0	(2-Afghan, 21- Georgia, 10- Philippines	\$0.0
03	\$0.0		\$0.0
TOTAL		\$1,107.6M	(FY 90 - FY 03)



# ***Special Drawdowns for FY 2004***

- **\$30M for War Crimes Tribunals established with regard to former Yugoslavia**

**[\$546, P.L. 108-199]**

- **\$97M for Iraqi Democratic Opposition Organizations [NGOs]      [\$4(a)(2), P.L. 105-338, 31 Oct 98,      Iraq Liberation Act of 98]**



# ***Other Special Drawdowns***

- **\$550M** for Afghanistan, or any other country or organization -- specifically for operations in and participation in military, peacekeeping, or policing operations in Afghanistan
  - Authority expires after 30 Sep 2006
  - 15-day advance notification prior to providing any assistance
  - Authorized to acquire by contract or otherwise

[Title II, P.L. 107-327, 4 Dec 02,  
Support Act of 02]

Afghan Freedom



## ***Emergency Crisis Management (cont.)***

- \$25M annually from any agency for unforeseen PKO emergencies.  
[§552(c)(2), FAA]



- Delayed FMS payment [§21(d), AECA]
  - Until delivery.
  - Up to 60 days (by DSCA) after delivery, or
  - Up to 120 days (by the President) after delivery.  
[§21(d), AECA]





# ***Emergency Crisis Management (cont.)***

- **Presidential waiver of AECA 15/30-day congressional review for FMS [§36(b)], DCS [§36(c)], third country transfers [§3(d)], and leases [§62(b)].**
- **Special Authority [§614, FAA]**
  - **President may authorize assistance without regard to FAA, AECA, or related laws; notification is still required.**
  - **Worldwide, annual ceilings: \$250M (Credit/Grants), \$750M (Cash); \$50M per country, but up to \$500M if victim of active aggression.**
  - **Does not create additional monies (current appropriations)**





## ***S.A. In Operations Desert Shield / Storm***

- **Over 350 new FMS cases valued at \$12B**
- **\$130M in SDAF equipment furnished**
- **\$225M in equipment drawdowns delivered**
- **3rd country transfer procedures streamlined**
- **Pre-conflict equipment sales and military training aided coalition forces**



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# ***Excess Defense Articles***

- **FMS sale at reduced price [§21, AECA]**
- **Grant transfer [§516, FAA]**
  - **For any country justified for such assistance**
    - **Countries identified in the CBJ for the fiscal year**
  - **Determined preferable over sale because of benefit to U.S. foreign policy**
  - **Presidentially determined to have no adverse effect on U.S. marketing**
  - **30 day notification for SME or articles originally valued at \$7M or more**



# ***Grant EDA (continued)***

- During FY00-04, the traditional 7:10 Greece/Turkey ratio must be maintained
- Delivery (transportation) priority for Portugal, Greece, Turkey, Israel, Egypt, Jordan, and Philippines
- USCG EDA eligible for transfer
- Total aggregate current value transferred annually cannot exceed \$425M
  
- Annual report NLT 1 Feb listing SME believed likely to be available for transfer as EDA during the next 12 months [§25(a)(13), AECA]



# ***Grant EDA (continued)***

- **“As is - Where is”**
- **However, PCH&T can be waived (DoD-funded) when:**
  - **Determined to be in U.S. national interest,**
  - **For a developing country receiving less than \$10M in FMFP and IMET for the year,**
  - **Transfer does not exceed 50,000 lbs, and**
  - **Completed on space-available basis.**

**[\$516(e)(1), FAA]**



# ***Conditions of Eligibility - Grants “505 Agreement”***

- No defense articles or related training or other defense service shall be furnished to any country **on a grant basis unless the country agrees to the following “use” provisions:**
  - Limits use to government officers, employees, and agents
  - Does not permit unauthorized transfers
  - Does not permit use for purposes other than those for which furnished
  - Maintains required security
  - Will permit observation and furnish information
  - Returns equipment to the U.S. when no longer needed

**[\$505a, FAA]**



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